

III. REMARKS

Claims 1-56 are pending in this application. By this amendment, claims 1, 20, 21, 40, 41 and 54-56 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-15, 19-35 and 39-56 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal *et al.* (U.S. Patent No. 6,606,661), hereafter "Agrawal" in view of Bondarenko *et al.* (U.S. Patent No. 6,389,028), hereafter "Bondarenko." Claims 16-18 and 36-38 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal in view of Bondarenko and further in view of Slotznick (U.S. Patent No. 6,011,537), hereafter "Slotznick."

With regard to the 35 U.S.C. §103(a) rejection over Agrawal in view of Bondarenko, Applicants assert that the cited references do not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 21, and 55, Applicants submit that the cited references fail to teach or suggest that an enqueued user may remain enqueued while navigating away from the scarce resource. Instead, the invention in Agrawal discloses modifying the value of a timer that determines the amount of time a client may be connected to a socket of a server according to the current load on the server. Col. 2, lines 28-43. If no socket is available at the time of a request from a client to the server, the request is queued in the server queue to wait on resources. Col. 3, lines 4-10. However, Agrawal does not teach that the client may navigate

09/917,536

Page 15 of 18

from the resource and remain in the queue. Similarly, Bondarenko discloses a system for communicating with a user that is attempting to communicate with a call center. Col. 11, lines 30-41. If no agent in Bondarenko is available, the call is placed in a queue. Col. 7, lines 56-67. However, nowhere does Bondarenko disclose that the caller may remain enqueued while navigating away from the scarce resource. In contrast, the present invention includes "...an enqueued user may remain enqueued while navigating away from the scarce resource." Claim 1. As such, the user as included in the claimed invention does not have to remain connected to the site in order to remain enqueued as in Agrawal and Bondarenko, but instead may remain enqueued while navigating away from the scarce resource. Thus, the queue as included in the present invention is not equivalent to the queues of the cited references. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to independent claims 41, 54 and 56, Applicants respectfully submit that the cited references also fail to teach or suggest requesting access to a scarce resource of a web site. Instead, the clients of Agrawal attempt to receive service from a socket of a server. Col. 2, lines 60-65. Agrawal does not disclose that the socket of a server is of a web site. Similarly, a user in Bondarenko makes a call to a call center. Col. 11, lines 21-33. Nowhere does Bondarenko disclose that its call center is part of a web site. The present invention, in contrast, includes "...requesting access to said scarce resource of a web site." Claim 41. As such, the scarce resource to which access is requested in the present invention is not simply a socket of a server as in Agrawal or a telephone bank as in Bondarenko, but instead is of a web site. For the above reasons, the scarce resource of a web site as included in the claimed invention is not equivalent to

the socket of a server in Agrawal or the telephone bank of Bondarenko. Accordingly, Applicants request that the rejection be withdrawn.

With respect to dependent claims 20 and 40, Applicants respectfully submit that, contrary to the argument of the Office, Bondarenko fails to teach or suggest determining with the access level of the scarce resource at the desired maximum whether said scarce resource is able to accommodate access by said late requester. The passage of Bondarenko cited by the Office includes a description of a queue for a call center that includes a queue monitor for delivering information about the queue to the user. However, nowhere does Bondarenko teach or suggest that a user that was in the queue but has missed the opportunity to access the scarce resource may be allowed to access the resource upon return even though the desired maximum capacity has already been reached. In contrast, the claimed invention includes "...determining with the access level of the scarce resource at the desired maximum whether said scarce resource is able to accommodate access by said late requester." Claim 20. As such, the determining step as included in the claimed invention does not merely place users into a queue and provide information, but rather determines whether the scarce resource is able, even though the access level is currently at the desired maximum, to accommodate a requester that has missed the opportunity to access the scarce resource and has returned later. Thus, the determining step as included in the claimed invention is not equivalent to the functions of the queue in Bondarenko. Agrawal does not cure this deficiency. Accordingly, Applicants request withdrawal of this objection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed

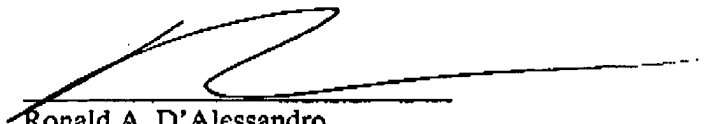
above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

IV. CONCLUSION

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: December 29, 2004



Ronald A. D'Alessandro
Reg. No.: 42,456

Hoffman, Warnick & D'Alessandro LLC
Three E-Comm Square
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER: _____**

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.